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Carmel Valley Office

2 September 2004

**FACSIMILE TRANSMISSION
SECURITY COVER SHEET****To: The United States Patent Office**
Crystal City, Virginia
Group Art Unit 2611
Attention: Examiner BuiFax No.: 703.872.9314
Tel No.: 703.305.0095**From: Thomas N. Giaccherini**
Post Office Box 1146
Carmel Valley, California 93924**Re: Submission of Third Disclosure Statement**
for USSN 09/688,997

This transmission comprises this transmittal sheet and 13 additional pages.

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PATENT
HMD2000-1-CIPA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicants: Thomas N. Giaccherini, et al.

SEP 02 2004

Examiner: Bui

Serial No.: 09/688,997

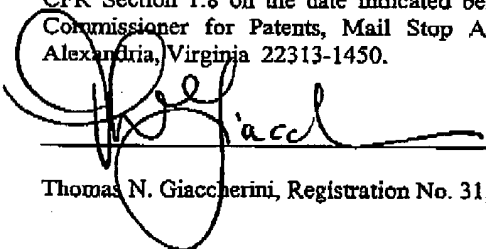
Group Art Unit: 2611

Title: Method for Utilizing
Excess Communications Capacity

Filed: 16 October 2000

CERTIFICATE OF FACSIMILE TRANSMISSION
UNDER 37 C.F.R. SECTION 1.8

The undersigned hereby certifies that this document is being transmitted to the United States Postal Service in accordance with the provisions of 37 CFR Section 1.8 on the date indicated below and is addressed to The Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, Virginia 22313-1450.


Thomas N. Giaccherini, Registration No. 31,075

Date 2 Sept 04.

THIRD DISCLOSURE STATEMENT

The Commissioner for Patents
Mail Stop Amendment
P.O. Box 1450
Alexandria, Virginia 22313-1450
Sir:

The Applicants submit this Third Disclosure Statement and completed Form PTO/SB/08A for their Pending U.S. Patent Application.

Third Disclosure Statement for U.S. Patent Application entitled
Method for Utilizing Excess Communications Capacity
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DISCLOSURE DOCUMENTS

I. Disclosure History

The Applicants disclosed the following documents in their Second Disclosure Statement:

U.S. Patent No. 5 864 557 issued to Lyons discloses a transport stream encoder, which comprises a plurality of component signal sources.

U.S. Patent No. 5 406 626 issued to Ryan discloses a radio receiver for information dissemination using sub-carrier.

U.S. Patent Application No. 2002/004 2919 is a Pending Continuation-in-Part Patent Application filed by the Assignee of the Present Application, and has a filing date later than the Present Application.

U.S. Patent No. 6 029 045 issued to Picco discloses a System and Method for Inserting Local Content Into Programming Content.

U.S. Patent No. 6 366 761 issued to Montpetit discloses a Priority Based Bandwidth Allocation and Bandwidth-on-Demand in a Low-Earth-Orbit Satellite Data Communication Network.

Third Disclosure Statement for U.S. Patent Application entitled
Method for Utilizing Excess Communications Capacity

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U.S. Patent No. 5 652 795 issued to Dillon discloses a Method and Apparatus for an Adapter Card Providing Conditional Access in a Communication System.

PCT International Patent Application Publication No. WO 97/18651 owned by Hughes Aircraft Company discloses a method and apparatus for an adaptor card for use in a computer to provide conditional access by the computer to incoming data streams.

II. Parallel Prosecution of Related U.S. & European Patent Applications

A. Related US Patent Application USSN 09/579,324

Since the Applicants submitted their Second Disclosure Statement, the U.S. Patent Office has cited additional documents against the Pending Claims of a Related U.S. Patent Application USSN 09/579,324. In a First Office Action dated 2 October 2003 Examiner Anh Vu H. Ly rejected the Pending Claims of USSN 09/579,324 under Section 102 based on Picco 045, which was disclosed by the Applicants in the Second Disclosure Statement for the Present Application. After the Applicants submitted a First Amendment for USSN 09/579,324, Examiner Ly withdrew the Section 102 rejection, and issued a Section 103 rejection based on Picco 045 and Fenwick US2003/0204852. The Examiner also cited White US2003/018587. The Applicants then submitted a Request for Reconsideration on 24 August 2002, traversing the Section 103 rejection. A PTO Form SB/08A is enclosed which lists the two new documents, Fenwick and White.

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B. Related European Patent Application No. 01 939 003

The Applicants also submit a copy of the PCT International Search Report dated 22 January 2004 which is the basis for current prosecution before the European Patent Office for EP Application No. 01 939 003. The European Examiner has cited Lyons and Hughes Aircraft, which the Applicants disclosed in their Second Disclosure Statement for the Present Application.

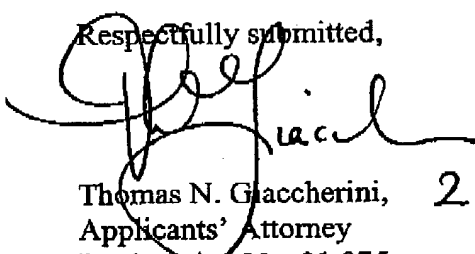
Third Disclosure Statement for U.S. Patent Application entitled
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CONCLUSION

A completed PTO/SB/08A accompanies this Third Disclosure Statement.

The Applicants submit that none of the documents described above disclose the Invention as claimed in the present Patent Application. The Applicants believe that no fee is required to submit this Third Disclosure Statement.

Respectfully submitted,


Thomas N. Giaccherini,
Applicants' Attorney
Registration No. 31,075

2 Sept 04.

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|------------------------|----------------|
| Application Number | 09/688 997 |
| Filing Date | 16 OCT 2000 |
| First Named Inventor | GIACCHERINI |
| Art Unit | |
| Examiner Name | |
| Attorney Docket Number | HMD2000-1-CIPA |

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| Date | |
| Considered | |

Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PAGE 7/14 * RCVD AT 9/2/2004 12:54:38 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/5 * DNIS:8729314 * CSID:831 659 7301 * DURATION (mm:ss):03:58

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